

Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. See 86 Ill. Adm. Code 130.325. (This is a GIL).

March 28, 2002

Dear Xxxxx:

This letter is in response to your letter received January 16, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

We are in the process of updating our sales and use tax taxability guidelines in regard to 'newspaper publishing' production activities. Please provide us guidance in regard to the following issues:

1. Does your State treat 'newspaper publishers' as 'manufacturers'?
2. If yes, are newspaper publishers entitled to all manufacturing exemptions that your State provides? If no, are newspaper publishers entitled to any publishing production tax exemptions? Printing exemptions?
3. At what stage of the process does production (for exemption purposes) begin for newspaper publishers? At what stage of the process does production (for exemption purposes) end for newspaper publishers?
4. Please address the taxability of the following purchase transactions when made by a newspaper publisher:
  - ✓ Paper & Ink
  - ✓ Chemicals consumed during the publishing process, however do not become a component of the newspaper
  - ✓ Printing plates (either produced by the publisher or purchased from a third-party)
  - ✓ Printing film
  - ✓ Cleaning Chemicals
  - ✓ Desks & Multi-purpose tables used to prepare layouts for printing process

- ✓ Publishing/printing equipment, accessories and repair parts (presses, cutters, binders, etc.)
  - ✓ Printing blankets
  - ✓ Fountain solution
  - ✓ Digital equipment & third-party processing charges
  - ✓ Intraplant transportation equipment (i.e. forklifts used to move \*\*\* products from one production line to another)
  - ✓ Intraplant transaction equipment (i.e. forklifts used to move raw materials to the first production machine)
  - ✓ Intraplant transportation equipment (i.e. forklifts used to move finished products from the last machine to a storage area)
  - ✓ Intraplant transportation equipment (i.e. forklift used to do 'all' of the above)
  - ✓ Packaging/binding equipment & parts
  - ✓ Packaging supplies & materials
  - ✓ Pollution control equipment & parts
  - ✓ Pollution control chemicals
  - ✓ Recycling/Bundling equipment & parts (chops and bundles scrap paper for sale)
  - ✓ Waste handling/disposal equipment & parts
  - ✓ Quality control/testing equipment & parts (used to test product during production)
  - ✓ Safety equipment & supplies
  - ✓ Utilities used for production (i.e. natural gas, electrical energy, water, etc.)
  - ✓ Computer equipment (Le. laptops used by reporters out in the field to send in stories, etc.)
5. When manufacturing/production equipment and parts are used for production and non-production activities, how is the exemption percentage determined?
  6. Have the 'effective' dates of the answers you provided to the above questions changed over the last 3.5 years?
  7. What is statute period for recovery of tax overpayments?

We appreciate your assistance with this inquiry. Please contact me if you need more information. Please reference all statutes and regulations on which you base your answers. Please directly address all questions, DO NOT merely send us a copy of your regulations.

In Illinois, the exemption from sales tax for manufacturing machinery and equipment does not include printing. However, there is an exemption for graphic arts machinery and equipment. The Department's rules regarding the Graphic Arts Machinery and Equipment Exemption are set forth at 86 Ill. Adm. Code 130.325, copy enclosed. Under the graphic arts machinery and equipment exemption, Retailers' Occupation Tax does not apply to sales of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. The exemption extends to purchases by lessors who will lease the property for use primarily in graphic arts production. Taxpayers must certify the use of the equipment they are purchasing to their suppliers.

Public Act 91-541, effective August 13, 1999, changed the statutory definition of graphic arts. Under the new definition, “graphic arts production” means “printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System (“NAICS”) published by the U.S. Office of Management and Budget, 1997 edition (no subsequent amendments or editions are included). Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audio-books.”

The North American Industry Classification System can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield Virginia 22161 (Phone: 1-800-553-6847). The Department also maintains a copy of this information which may be obtained upon request at cost.

“Machinery” means major mechanical machines or major components of such machines contributing to graphic arts production. “Equipment” means any independent device or tool separate from any machinery but essential to the graphic arts production process; or any sub-unit of assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery.

The exemption does not include hand tools, supplies such as rags, lubricants, adhesives, solvents, ink, dyes, chemicals, negatives, acids or solutions, fuels, electricity and steam or water. (However, please note that under Public Act 92-0484, effective August 23, 2001, graphic arts equipment includes chemicals or chemicals acting as catalysts, but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.) The exemption does not include items of personal apparel, such as gloves, shoes, glasses, goggles, coveralls, aprons, and masks. Machinery and equipment does not include foundations or special purpose buildings to house or support graphic arts machinery and equipment. It also does not include computer software unless purchased preinstalled in qualifying computer equipment.

The law requires that machinery and equipment be used primarily in graphic arts production. Machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for the exemption; however, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50% in an exempt manner in order to claim the exemption.

Section 130.325(b)(4) sets forth some examples of activities that will generally be considered graphic arts production. Section 130.325(b)(5) provides examples of activities that will generally not be considered to be graphic arts production.

Section 130.325(b)(8) explains how the exemption certificates work. Purchasers wishing to claim the exemption must certify to their suppliers that the machinery and equipment will be used primarily for graphic arts production. Retailers must maintain the certificates in their books and records. The certificate must include the seller’s name and address, the purchaser’s name and address and a statement that the property purchased will be used primarily in graphic arts production. If a graphic arts producer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must maintain a copy of the certification in his records to support the deduction taken on the return.

Please note that Section 130.325(c) sets forth the provisions that were in effect for the graphic arts machinery and equipment exemption until August 13, 1999.

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. See the enclosed copy of 86 Ill. Adm. Code 130.1501. Only persons who have actually paid tax to the Department can file a claim for credit. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. In other words, if a purchaser has paid tax to his supplier, only that supplier can file a claim for credit.

The supplier must first refund tax money paid by the purchaser before proceeding with the claim. Once the supplier has done this, he or she must apply for the credit in the manner described in the regulation. Suppliers are not required by law to apply for such credits; rather, this procedure is voluntary. Whether or not the supplier refunds the tax paid and files a claim for credit with the Department is a private matter between the supplier and the purchaser. As to any claim for credit filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Enc.